

EPSTEIN BECKER & GREEN, P.C.

Jennifer M. Horowitz (JH-3173)
 Victoria M. Sloan (VS-6262)
 250 Park Avenue
 New York, New York 10177-0077
 (212) 351-4500
 Attorneys for Defendant
 Aetna Life Insurance Company

UNITED STATES DISTRICT COURT
 SOUTHERN DISTRICT OF NEW YORK

-----	X	
ALAN M. ENGLER, M.D.	:	
(Sahley Rivers)	:	
	:	Index No.: 08 CV 0911 (HB)
Plaintiff,	:	
	:	
- against -	:	
	:	<u>ANSWER TO THE AMENDED</u>
AETNA HEALTH & LIFE INSURANCE COMPANY,	:	<u>COMPLAINT</u>
	:	
Defendant.	:	
-----	X	

Defendant Aetna Life Insurance Company (“ALIC”) named incorrectly by plaintiff as “Aetna Health & Life Insurance Company,” by its attorneys, Epstein Becker & Green, P.C., for its answer to the Amended Complaint:

1. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 1 of the Amended Complaint.
2. Denies the allegations contained in paragraph 2 of the Amended Complaint, except that ALIC is an insurance company that does business in New York, with offices located at 99 Park Avenue, New York, NY 10016.
3. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 3 of the Amended Complaint, except that, at certain times not specified in the complaint, Sahley Rivers was a member of an employee welfare benefit plan

with ALIC provided through her employer, and the action is governed by the laws set forth in ERISA, 29 U.S.C. §1001, et seq.

4. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 4 of the Amended Complaint.

5. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 5 of the Amended Complaint.

6. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 6 of the Amended Complaint.

7. Denies the allegations contained in paragraph 7 of the Amended Complaint.

8. Denies the allegations contained in paragraph 8 of the Amended Complaint that plaintiff is an “eligible medical provider to receive compensation” pursuant to the terms of an unspecified “contract of insurance” and denies knowledge or information sufficient to form a belief as to the remaining allegations in paragraph 8 of the Amended Complaint.

9. Repeats the answers in paragraphs 1 to 8.

10. Denies the allegations contained in paragraph 10 of the Amended Complaint.

11. Repeats the answers in paragraphs 1 to 10.

12. Denies the allegations contained in paragraph 12 of the Amended Complaint.

13. Repeats the answers in paragraphs 1 to 12.

14. Denies the allegations contained in paragraph 14 of the Amended Complaint.

First Defense

3. The Amended Complaint fails to state a claim upon which relief can be granted.

Second Defense

4. Plaintiff (and his assignor) has failed to exhaust his administrative and contractual remedies.

Third Defense

5. The applicable healthcare contract prohibits the assignment of medical benefits absent written consent by ALIC, which consent ALIC did not provide.

Fourth Defense

6. Plaintiff's causes of action are barred due to his failure to fulfill a condition precedent.

Fifth Defense

7. Plaintiff improperly served defendant with the summons and complaint.

Sixth Defense

8. Any state common law or statutory claims asserted by plaintiff are preempted by the Employee Retirement Income Security Act ("ERISA"), and more particularly, 29 U.S.C. §§ 1132 and 1144.

Seventh Defense

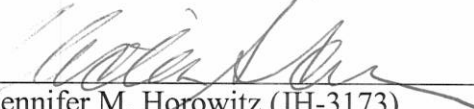
9. ALIC properly paid and/or denied coverage for the medical claims that are the subject of this action.

WHEREFORE, defendant ALIC demands judgment (1) dismissing the Amended Complaint in its entirety, (2) awarding it the costs and disbursements of this action, and (3) such other and further relief the Court may deem just and proper.

Dated: New York, New York
June 10, 2008

EPSTEIN BECKER & GREEN, P.C.

By:


Jennifer M. Horowitz (JH-3173)
Victoria M. Sloan (VS-6262)

250 Park Avenue
New York, New York 10177-0077
(212) 351-4500
Attorneys for Defendant Aetna Life Insurance
Company

To: Robert Santucci, Esq.
Santucci & Associates
110 Wall Street
11th Floor
New York, New York 10005
(212) 709-8357
Attorney for Plaintiff Alan M. Engler, M.D.

AFFIDAVIT OF SERVICE BY MAIL

STATE OF NEW YORK)
)
COUNTY OF NEW YORK) ss.:

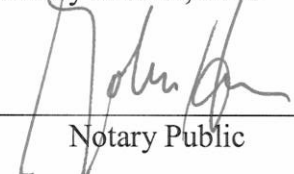
Christine Clowes, being duly sworn, says:

I am not a party to this action, am over 18 years old and reside at New York, NY.
On June 10, 2008, I served a true copy of the attached Answer to the Amended Complaint by first class mail by depositing same in a sealed envelope, postage prepaid, in an official depository of the U.S. Postal Service within the State of New York, addressed to the following person at the address indicated below:

Robert Santucci, Esq.
Santucci & Associates
110 Wall Street
11th Floor
New York, New York 10005


Christine Clowes

Sworn to before me this
10th day of June, 2008



Notary Public

JOHN HARRIS
Notary Public, State of New York
02HA4951307
Qualified in Queens County
Certificate Filed in New York County
Commission Expires May 22, 2011